

# §308 Request for Information

Date: 02/18/2015

## ROUTING AND TRANSMITTAL SLIP

TO: (Name, office symbol, room number, building, Agency/Post)

1.	Enforcement Officer(Myers)/Workgroup Lead	Initials	Date
2.	Mattox (Tracking)		
3.	White/Section Chief		
4.	Staff Attorney M. Wetherington		
5.	Ellis/ Diaz		
6.	White (Mailing/e-filing)/ Mattox (Copy)		
7.	Enforcement Officer Myers		

Action	File	Note and Return
X Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

From: (Name, org. symbol, Agency/Post)

Pamala Myers

Room No.—Bldg.

Phone No. 2-9421

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions.

### REMARKS:

308 Request for Information from Dental office of Dr. Cheryl Locklear, DDS.

Red Springs, NC.

Reference to: Town of Red Springs, WWTP (NC0025577).

Electronic Version Saved on: T:\NPEB\Pretreatment\Enf-Comp\NC\Town of Red Spring, NC\_02 2015\Dr. Locklear DDS\_308 Request\

Contacted State Agency: (Y)N Date: 2/18/15

Who at State: John Hennessy  
via vnx and email

Route in green folder

OPTIONAL FORM 41 (Rev. 1-94)  
Prescribed by GSA  
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T:\1 CWEB\Administrative\Enf. Routing Slips\FY14 routing slips\ CWA-NPDES §308 Request for Information





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

FEB 23 2015

CERTIFIED MAIL 7010 1060 0002 1703 9775  
RETURN RECEIPT REQUESTED

Dr. Cheryl Locklear, DDS  
239 South Main Street  
Red Springs, North Carolina 28377

Re: Information Request Pursuant to Section 308 of the Clean Water Act for  
Cheryl Locklear, DDS

Dear Dr. Locklear:

The purpose of this letter is to inform you that the U.S. Environmental Protection Agency Region 4 is currently investigating your facility located at 239 South Main Street, Red Springs, Robeson County, North Carolina, for compliance with the requirements of Sections 301 and 307(d) of the Clean Water Act (CWA), 33 U.S.C. §§ 1311 and 1317(d); and the regulations promulgated thereunder at 40 C.F.R. Part 403.

Specifically, 40 C.F.R. § 403.5(a)(1) states: A User may not introduce into a Publicly Owned Treatment Work (POTW) any pollutant(s) which cause pass through or interference. These general prohibitions and the specific prohibitions in paragraph (b) apply to each User introducing pollutants into a POTW, whether or not the User is subject to other National Pretreatment Standards or any national, State or local Pretreatment Requirements. The definition of "Industrial User or User" includes a source of Indirect Discharge, see 40 C.F.R. § 403.3(j). "Indirect Discharge," defined in 40 C.F.R. § 403.3(i), means the introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c) or (d). This includes a dental office as a non-domestic source because it is an entity that discharges wastewater from a facility other than a residential unit.

In addition, 40 C.F.R. § 403.5(b)(4) states: The following pollutants shall not be introduced into a POTW: Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a Discharge at a flow rate and/or pollutant concentration, which will cause Interference with the POTW. "Interference" is defined in 40 C.F.R. § 403.3(k) as: a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both: 1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and 2) Therefore is a cause of a violation of any requirement of the POTW's National Pollutant Discharge Elimination System Permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal.

Therefore, pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, the EPA hereby requests that Dr. Cheryl Locklear, DDS provide the information set forth in Enclosure A within 10 business days of your receipt of this letter.

Your response should be submitted to:

Ms. Pamala Myers  
U.S. Environmental Protection Agency, Region 4  
NPDES Permitting and Enforcement Branch  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

All information submitted must be accompanied by the following certification that is signed by a duly authorized company official in accordance with 40 C.F.R. § 403.12(l):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Failure to provide a full and complete response to this information request or to adequately justify a failure to respond within the time frame specified above may result in an EPA enforcement action pursuant to federal law, including but not limited to the CWA, 33 U.S.C. § 1319 and 18 U.S.C. § 1001.

If you believe that any of the requested information constitutes confidential business information, you may assert a confidentiality claim with respect to such information, except for effluent data. Further details, including how to make a business confidentiality claim, are found in Enclosure B.

Enclosure C is a document entitled *U.S. EPA Small Business Resources-Information Sheet* to assist you in understanding the compliance assistance resources and tools available for small businesses. Any decision to seek compliance assistance at this time, however, does not relieve you of your obligation to the EPA nor does it create any new rights or defenses and will not affect the EPA's decision to pursue enforcement action.

In addition, the Securities and Exchange Commission (Commission) requires its registrants to periodically disclose environmental legal proceedings in statements filed with the Commission. To assist you if you are a registrant, Enclosure D is a document entitled *Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings*.

The EPA appreciates your prompt attention to this matter. Should you have any questions regarding this letter, please contact Ms. Pamala Myers at (404) 562-9421. Legal inquiries should be directed to Ms. Michele Wetherington, Associate Regional Counsel, at (404) 562-9613.

Sincerely,



Denisse D. Diaz, Chief  
NPDES Permitting & Enforcement Branch  
Water Protection Division

Enclosures

cc: Mr. Jonathan Risgaard  
North Carolina, Division of Water Resources



## ENCLOSURE A

### INFORMATION REQUEST PURSUANT TO SECTION 308 OF THE CLEAN WATER ACT

#### Instructions

1. Identify the person(s) responding to this Information Request.
2. Please provide a separate narrative response to each and every Question and subpart of a Question set forth in this Information Request.
3. Precede each answer with the text and the number of the Question and its subpart to which the answer corresponds.
4. All documents submitted must contain a notation indicating the Question and subpart of the Question to which they are responsive.
5. In answering each Information Request Question and subpart thereto, identify all documents and persons consulted, examined or referred to in the preparation of each response, and provide true and accurate copies of all such documents.
6. If information unknown or unavailable to you as of the date of your submission of a response to this Information Request should later become known or available to you, then you must supplement your response to the EPA. If you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, then you must notify the EPA as soon as possible.
7. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question to which it responds.
8. Where specific information has not been memorialized in a document, but is nonetheless responsive to a Question, you must respond to the Question by providing the information in writing.
9. If information responsive to this Information Request is not in your possession, custody or control, then identify the person from whom such information may be obtained and their contact information.
10. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Question or who may be able to provide additional responsive documents, then identify such persons, their contact information, and the additional information or documents that they may have.
11. The EPA requests that all documents provided in an electronic format be compatible with pdf.
12. The EPA requests that all spreadsheet information be in an electronic format and compatible with MS Excel.





13. If any Question relates to activities undertaken by entities other than the recipient of this Information Request, and to the extent that you have information pertaining to such activities, then provide such information for each entity.

#### Definitions

1. All terms not defined herein shall have their ordinary meanings, unless such terms are defined in the Clean Water Act or its implementing regulations, in which case the statutory or regulatory definitions shall control.
2. Words in the masculine may be construed in the feminine if appropriate, and vice versa, and words in the singular may be construed in the plural if appropriate, and vice versa, in the context of a particular question or questions.
3. The terms "And" and "Or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed outside its scope.
4. The term "Identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
5. The term "Identify" means, with respect to a document, to provide its customary business description; its date; its number, if any (invoice or purchase order number); the identity of the author, addressee and/or recipient; and substance of the subject matter.
6. The term "Identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
7. The term "Facility" means Dr. Cheryl Locklear, DDS's facility located at 239 South Main Street in Red Spring, Robeson County, North Carolina.
8. The term "You" and "Your" shall mean Dr. Cheryl Locklear, DDS.
9. The term "Permit" shall mean an industrial user permit issued to the Facility by the Control Authority.
10. "Control Authority" shall mean the North Carolina Department of Environment and Natural Resources pursuant to 40 C.F.R. § 403.3(f).



### Questions

1. Identify the names and addresses of the current owner(s) of the Facility property. Specify the legal name with the exact spelling of each owner. Specify the state of incorporation and principal place of business for each corporate owner. If incorporated, provide the name and mailing address of the registered agent. Additionally, provide a copy of the deed(s) of ownership of the Facility.
2. If the Facility has applied for and/or received a Permit for such discharges, then provide a timeline of the wastewater permitting history for the Facility from January 1, 2010 to present, including:
  - a. the date(s) that Permit applications were either requested by the Control Authority or submitted by the Facility;
  - b. the date(s) that draft or final Permit(s) were received by the Facility; and
  - c. the date(s) that comments on such draft(s) were submitted to the Control Authority.

If the Facility has never received a Permit for the discharge of process wastewaters to a publicly owned treatment works, then please explain this in the response.

3. Provide complete copies of all communication to or from the Control Authority, from January 1, 2010 to present, which concerns the Facility's process wastewater discharge(s). This information should be organized in chronological order with a table of contents. Communication that only regards water/sewer service billing or payment can be excluded.
4. Provide current schematics of the Facility property identifying the physical boundaries, the individual operational areas, and the process wastewater sources within each production area. This might include a Property Deed or Plat drawing of the office property and a diagram of the internal features of the office with each dental chair area defined.

Include a separate schematic identifying the pathway(s) of process wastewaters, the pathway(s) of non-process wastewaters, any in-line valves/storage/appurtenances, and any points of combining flows, beginning from the source(s) of the flow to the termination points at public sewers or other locations. Include a flow balance on this schematic identifying the current average daily flow rates of process wastewater and non-process wastewater during production. Identify the rate at each originating source, prior to each point of combining flows, and at each point of flow termination or storage. Identify the originating processes for the flows, the means of disposal at the termination points, the capacity and utilization of any storage, the flow rates in gallons per day, and whether each flow rate is measured or estimated.

5. Provide a timeline identifying the Facility's construction, and narrative describing its production equipment and their purpose and acquisition dates. Include the dates when the initial construction of the Facility began and when the initial discharge of process wastewater to the public sewer began.



6. If the Facility was purchased in whole or part, then also provide the final contract date(s) for the purchase(s). Provide the final purchase contract dates and detailed descriptions of any substantive modifications, additions, or replacements made to any production equipment.
7. Provide a detailed discussion of the Facility's products and production processes, referencing the process source schematic provided for the production areas in item #4, above. Include the raw materials used, their preparation and their combination including, but not limited to:
  - a. Any physical/chemical preparation of the materials used, and if that is performed on-site;
  - b. Describe activities of the Facility associated with these devices or procedures as described in the "American Dental Association, Best Management Practices for Amalgam Waste, October 2007".
    - i. How many chairs are used for dental treatments?
    - ii. How many customers does the dental office see on a monthly basis?
    - iii. What type of amalgam capture device(s), such as a chair side trap, vacuum pump filter or amalgam separator that collects amalgam particles, are utilized by your dental practice?
    - iv. What date was the amalgam capture device(s) installed?
    - v. What is the make and model of the device(s) or separator(s) installed?
    - vi. How often is the functionality of the device(s) or separator(s) checked?
    - vii. What is the dental practice standard operating procedure when the amalgam capture device or separator is inoperable or partially functioning?
    - viii. How often are the amalgam capture device(s) or separator (s) replaced or cleaned?
    - ix. Please identify the individual(s) responsible for the maintenance and replacement of the device(s) or separator(s).
    - x. How is the amalgam sludge (mixture of liquid and solid material that collects within vacuum pump filters) disposed?
    - xi. Provide a description of how this Facility manages contact amalgam. Contact amalgam is amalgam that has been in contact with the patient. Examples are extracted teeth with amalgam restorations, carving scrap collected at chair side, and amalgam captured by chair side traps, filters, or screens.
    - xii. What type of amalgam waste handling and disposal practices are used that include, but are not limited to, initiating bulk mercury collection programs, using chair side traps, amalgam separators compliant with *ISO 111433* and vacuum collection, inspecting and cleaning traps, and recycling or using a commercial waste disposal service to dispose of the amalgam collected? Provide copies of the most recent manifest for transport for recycling and/or disposal.
    - xiii. If empty amalgam capsules for individually-dosed containers are left over after mixing precapsulated dental amalgam, describe the practice for their disposal.



- xiv. Describe the disposal practice involved with non-contact amalgam (scrap), which is excess mix leftover at the end of a dental procedure.

8. Provide all wastewater monitoring data collected by this Facility, or under contract to, the Facility starting January 1, 2010 to present. The EPA prefers that such data be provided as a summary in an electronic spreadsheet format compatible with MS Excel. Present the data for laboratory-tested samples separately from data for flow, pH, temperature and other field- or continuously-monitored parameters. Include the following for each data point:

- a. Parameter monitored;
- b. Date monitored (month/day/year);
- c. Analytical result;
- d. Units of measure;
- e. Analytical method;
- f. Sample type (grab, time-proportional composite, or flow-proportional composite)
- g. Flow recorded at the time of monitoring;
- h. Sampling location; and
- i. Flow monitoring location.

Analytical methods need only be provided for laboratory analyses; for flow, pH, temperature and other field- or continuously-monitored parameters, identify the testing equipment used and their calibration frequencies. For flow monitoring data, only (a), (b), (c), (d), and (i) need to be provided. Location descriptions for (h) and (i) should be identifiable on the schematics provided in item #4 above.

9. For each month since January 1, 2010 to present, identify in a spreadsheet:

- a. The days of production; this includes all days of dental activities from this Facility,
- b. The monthly production (mg or kg); provide data on the amount of amalgam purchased versus amounts wasted, or disposed of, and
- c. The monthly process wastewater discharge flow to the sewer, indicating measurements and estimations. This may be the Facility wastewater bills from the Town of Red Springs, WWTP.

10. Provide dated color photos of the Facility's typical production discharge to the sewer (if accessible), and of any wastewater treatment systems used prior to discharge. Identify the subject matter and location with each photo and reference the locations as they are identified on the schematics provided in item #4 above. Office photographs, dental chairs, and sinks with filter apparatus may be included here.





11. Provide a copy of any inspection reports, notices of violations, administrative orders, cease and desist orders, and any related correspondence from local, State or federal agencies related to the process wastewater discharge from the Facility since the discharge of process wastewater from the Facility to the public sewer began.
12. Report all quantities of bulk elemental mercury disposed of since January 1, 2010 to present; noting the amount, date of disposal, and disposal contractor used. If you use bulk elemental mercury in the office/Facility, you should recycle it. Check with a licensed recycler to determine whether they will accept bulk mercury. **Do not pour bulk elemental mercury waste in the garbage, red bag or down the drain.** You also should check with your state regulatory agency and municipality to find out if a bulk mercury collection program is available.



## ENCLOSURE B

### RIGHT TO ASSERT BUSINESS CONFIDENTIALITY CLAIMS (40 C.F.R. Part 2)

Except for effluent data, you may, if you desire, assert a business confidentiality claim as to any or all of the information that the EPA is requesting from you. The EPA regulation relating to business confidentiality claims is found at 40 C.F.R. Part 2.

If you assert such a claim for the requested information, the EPA will only disclose the information to the extent and under the procedures set out in the cited regulations. If no business confidentiality claim accompanies the information, the EPA may make the information available to the public without any further notice to you.

40 C.F.R. § 2.203(b). Method and time of asserting business confidentiality claim. A business which is submitting information to the EPA may assert a business confidentiality claim covering the information by placing on (or attaching to) the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by the business, and may be submitted separately to facilitate identification and handling by the EPA. If the business desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state.

